

## REMARKS

Claims 1-9, 12-30, 34 -52 and 57-68 are pending in this application. Reconsideration in view of the foregoing amendments and following remarks is respectfully requested. In a sincere effort to conclude the prosecution of the above-identified patent application. Claims 8-12, 30-33 and 53-56 are cancelled and Claims 1, 13, 14, 21-23, 34, 35, 39, 44-46, 57, 62, 67 and 68 are amended.

Applicants' specification is amended to correct two inadvertent, readily apparent misstatements. In particular, paragraph [0052] is amended to delete the browser-executable code for Malvern Instruments Inc. Paragraph [0054] is amended to insert the publication No. for U.S. Patent Application Serial No. 10/375,957.

The objections to the instant specification are believed to be obviated by the foregoing amendments. The reason for bolding and underlining "foreign application or patent, or to a publication" in the Office Action under reply is not understood since no instance of an unpublished source was found in the specification, other than the patent application referred to in the preceding paragraph and that has been corrected. Applicants would respectfully point out that the statement in the specification concerning incorporation by reference specifically states that it is intended only to the extent necessary "to understand or complete the disclosure", clearly not intending to provide essential material.

Turning to the claims, Claims 8-12, 30-33 and 53-56 are cancelled and Claims 1, 13, 14, 21-23, 34, 35, 39, 44-46, 57, 62, 67 and 68 are amended to more precisely define Applicants' invention. In particular, the amendments to the claims restrict the definition of the co-solvent component of the subject liquid carrier vehicle to a member selected from ethers, alkyl sulfoxides and mixtures thereof, Claims 1, 21-23, 45, 46, 67 and 68. That the co-solvent may be an ether, an alkyl sulfoxide or a mixture thereof is supported in paragraph [0042] of Applicants' specification. Claim 1 is also amended to

recite that the claimed liquid composition is suitable for an EHD spraying/aerosoliation means, support therefor being found, for example, in Claim 23 as filed.

Claims 13, 34 and 57 are amended to correct the naming of dipalmitoylphosphatidylglycerol and 1-palmitoyl-2-oleoyl-phosphatidylglycerol, respectively and to correct the Markush terminology so that the group ends with "and" preceding the final recited member. This amendment is also made to Claims 39 and 62. Claim 46 is amended to recite that the patient to whom the recited aerosol is administered is in need of treatment with the recited pharmaceutically active agent. This is submitted to be clearly understood from the language of the claim. Finally, Claims 67 and 68 are amended recite that it is the liquid carrier vehicle prepared in step (a) of Claim 46 that consists essentially of the recited components. Applicants note with appreciation the suggestion by the Examiner in bringing this point to Applicants' attention. This latter amendment obviates the rejection of Claims 67 and 68 under the second paragraph of 35 U.S.C. § 112. It is respectfully submitted that the foregoing amendments do not add new matter to the Claims and more particularly define Applicants' invention.

The rejection of Claims 1-68, now Claims 1-9, 12-30, 34 -52 and 57-68, under 35 U.S.C. § 102 as being anticipated by Thurston *et al.* is obviated by the amendment thereof to recite that the co-solvent of Applicants' liquid carrier vehicle is selected from the group consisting of ethers, alkyl sulfoxides and mixtures thereof. Thurston *et al.* teach compositions utilized for a purpose similar to that of the compositions of the present invention except that the solvent for such compositions is either water or ethanol. Thurston *et al.* disclose on page 9 that some or all of the water or ethanol can be replaced with a perfluorinated compound. The solvent of the resultant composition would be 100% of the perfluorinated compound or water or ethanol, or a mixture of the perfluorinated compound and either water or ethanol. Those are the only possibilities. Thurston *et al.*, therefore, does not teach a composition wherein the solvent is a

combination of liquid fluorocarbon and a co-solvent selected from ethers, alkyl sulfoxides or mixtures thereof. It is respectfully submitted that the claims under consideration, as amended, exclude compositions having the solvents taught by Thurston *et al.* Accordingly, Thurston *et al.* does not anticipate the claims under consideration. Withdrawal of the rejection is clearly in order and is respectfully requested.

The rejection of Claims 1-7, 13-29, 34-38, 40-42, 44-52, 57-61 and 63-68, under 35 U.S.C. § 102 as being anticipated by Fuhrman *et al.* is respectfully obviated by the foregoing amendments. It is evident from the rejection that the Examiner recognizes that Fuhrman *et al.* does not teach the specific co-solvents utilized by Applicants in their novel liquid carrier vehicles. Since Fuhrman *et al.* does not enable compositions of the type disclosed by Applicants and, specifically, does not teach nor suggest the use of ethers, alkyl sulfoxides or mixtures thereof as co-solvents in the liquid carrier vehicles of such compositions, it is respectfully submitted that it does not anticipate the Claims as amended. Accordingly, withdrawal of the rejection is clearly in order and is respectfully requested.

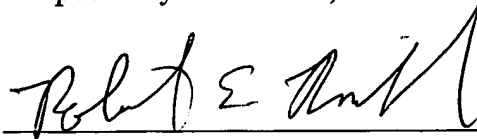
Accordingly, it is respectfully submitted that Claims 1-9, 12-30, 34 -52 and 57-68, as amended, clearly define patentable subject matter over the citations of record. The above-identified application is therefore considered to be in condition for allowance and an early Notice of Allowability is courteously solicited.

A Petition for a one-month Extension of Time with the Requisite Fee accompanies this Amendment, thereby extending the period for response until April 13, 2006 and thus providing for the timely filing thereof. Please charge our Deposit Account no. 03-3839 in the amount of \$60.00 for the one-month Extension of Time for this Amendment. No additional fees are believed to be necessitated by the instant

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response. However, should this be in error, authorization is hereby given to charge Deposit Account no. 03-3839 for any underpayment, or to credit any overpayments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert E. Rudnick", written over a horizontal line.

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Date: April 11, 2006

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